

EXHIBIT B

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Attorneys for Plaintiffs and Putative Class

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

LD, DB, BW, RH and CJ on behalf of
themselves and all others similarly
situated,

Plaintiffs,

vs.

UNITED BEHAVIORAL HEALTH,
INC. a California corporation, and
MULTIPLAN, INC., a Nevada
corporation,

Defendants.

Case No. 4:20-cv-02254-YGR

Related Case: 4:20-cv-02249-YGR

PLAINTIFF BW'S RESPONSE TO
DEFENDANT UNITED BEHAVIORAL
HEALTH'S FIRST SET OF
INTERROGATORIES

RESPONDING PARTY: Plaintiff BW

PROPOUNDING PARTY: Defendant UNITED BEHAVIORAL HEALTH

SET NUMBER: ONE

1 **TO DEFENDANT UNITED BEHAVIORAL HEALTH AND ITS ATTORNEY OF RECORD:**

2 Plaintiff BW responds as follows:

3 **INTRODUCTORY COMMENTS**

4 Respondent's answers are given without prejudice to producing at the time of trial
5 subsequently discovered information or information omitted by said responses due to good faith
6 oversight.

7 In setting forth these responses, Plaintiff does not waive the attorney/client, work product, or
8 other privilege or immunity from disclosure which might attach to information called for in, or
9 responsive to, any request. In responding to any and all portions of any request, Plaintiff does not
10 concede the relevance or materiality of the request or the subject matter to which the request refers.

11 These responses are submitted by Plaintiff subject to, and without in any way waiving or
12 intending to waive, but on the contrary, intending to reserve and reserving:

13 1 All questions as to competency, materiality, privilege and admissibility as evidence for
14 any purpose of any of the documents referred to or responses given, or the subject matter thereof,
15 and any subsequent proceeding in, or trial of, this action or any other proceedings;

16 2 The right to object to other discovery procedures involving or relating to the subject
17 matter of the requests herein responded to, including any request for production of documents
18 specifically identified herein; and

19 3 The right at any time to revise, correct, add to, or clarify any of the responses set forth
20 herein, or documents produced or referred to herein.

21 **GENERAL OBJECTIONS**

22 1 Plaintiff DB ("Plaintiff") submits his responses subject to all objections ordinarily
23 available if such statements are offered in court. All such objections are hereby expressly reserved
24 and may be interposed at the time of trial or at any other time. No response to any Request is
25 intended to be, nor shall any response be construed as, a waiver by Plaintiff of all or any part of any
26 objection to any Request.

27 2 Plaintiff's research, discovery, and preparation for trial in this matter are presently
28 ongoing and are not yet complete. This response reflects only the information which is presently

1 known to Plaintiff based upon his knowledge to date. Plaintiff anticipates that his continuing
2 discovery and investigation may reveal information not presently known to Plaintiff, or information
3 whose significance is not presently known to him, upon which Plaintiff may rely at trial.
4 Accordingly, Plaintiff's responses to these Interrogatories is made without prejudice to Plaintiff's
5 right to produce additional information at a later date and to introduce such information at the time
6 of trial.

7 3 Plaintiff objects to each Interrogatory to the extent that it seeks information protected
8 from disclosure by the attorney-client privilege and/or the attorney work product doctrine and/or any
9 other privilege or immunity. The inadvertent production of such information shall neither constitute
10 waiver of any privilege nor a waiver of any rights. Plaintiff may have to object to the use of any of
11 the information in any subsequent pretrial proceedings or at trial.

12 4 Plaintiff objects to each Interrogatory to the extent that it is overbroad and that it seeks
13 the production of information which is neither relevant to the subject matter of this litigation nor
14 reasonably calculated to lead to the discovery of admissible evidence.

15 5 Plaintiff objects to each Interrogatory to the extent that it is vague and ambiguous
16 and/or creates confusion given the issues involved in this litigation.

17 6 Plaintiff objects to each Interrogatory to the extent that it is burdensome and oppressive
18 and that compliance with specific requests would be unreasonably difficult and/or expensive.

19 7 Plaintiff objects to the entire set of Interrogatories to the extent that it seeks information
20 equally available to the propounding party.

21 8 Subject to these general objections and the specific objections below, Plaintiff will
22 provide responses indicated below in accordance with its obligations under the Federal Code of Civil
23 Procedure.

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Identify each claim for benefits at issue in the Complaint, including any claims by you or any putative class member.

Plaintiff objects that the Interrogatory is overbroad, compound, overbroad as to time, and unduly burdensome. Plaintiff further objects that the Interrogatory calls for information already known to and in the possession of the propounding party. Plaintiff objects to this Interrogatory on the grounds that it seeks information that is protected by the attorney-client privilege. Plaintiff further objects to this interrogatory as not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff further objects that the Interrogatory seeks information from third parties and information not within Plaintiff's possession, custody, control, or personal knowledge.

Subject to the foregoing and without waiving same, Plaintiff responds that his claims include but are not limited to:

Pursuant to Fed. R. Civ. P. 33(d) Plaintiff has elected to produce records as to his claims for benefits at issue in the Complaint:

PLD0000726 – PLD0000731 Provider Remittance Advice dated 04/28/2020

PLD0000732 – PLD0000741 Provider Remittance Advice dated 02/28/2020

PLD0000742 – PLD0000759 Provider Remittance Advice dated 02/14/2020

PLD0000760 – PLD0000773 Provider Remittance Advice dated 02/07/2020

PLD0000774 – PLD0000781 Provider Remittance Advice dated 01/31/2020

PLD0000782 – PLD0000795 Provider Remittance Advice dated 01/17/2020

PLD0000796 – PLD0000807 Provider Remittance Advice dated 01/10/2020

PLD0000808 – PLD0000815 Provider Remittance Advice dated 01/03/2020

PLD0000816 – PLD0000833 Provider Remittance Advice dated 12/27/2019

PLD0000834 – PLD0000845 Provider Remittance Advice dated 12/06/2019

PLD0000846 – PLD0000869 Provider Remittance Advice dated 11/29/2019

PLD0000870 – PLD0000885 Provider Remittance Advice dated 11/15/2019

1 PLD0000886 – PLD0000913 Provider Remittance Advice dated 11/08/2019
2 PLD0000914 – PLD0000933 Provider Remittance Advice dated 11/01/2019
3 PLD0000934 – PLD0000963 Provider Remittance Advice dated 10/11/2019
4 PLD0000964 – PLD0000985 Provider Remittance Advice dated 09/27/2019
5 PLD0000986 – PLD0001001 Provider Remittance Advice dated 09/13/2019
6 PLD0001002 – PLD0001017 Provider Remittance Advice dated 09/06/2019
7 PLD0001018 – PLD0001061 Provider Remittance Advice dated 08/30/2019
8 PLD0001018 – PLD0001061 Provider Remittance Advice dated 08/30/2019
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10 PLD0001065 – PLD0001066 Electronic PRA dated 03/04/2020
11 PLD0001067 – PLD0001070 Electronic PRA dated 02/02/2020
12 PLD0001071 – PLD0001073 Electronic PRA dated 02/02/2020
13 PLD0001074 – PLD0001076 Electronic PRA dated 01/23/2020
14 PLD0001077 – PLD0001079 Electronic PRA dated 01/15/2020
15 PLD0001080 – PLD0001082 Electronic PRA dated 01/08/2020
16 PLD0001083 – PLD0001087 Electronic PRA dated 01/02/2020
17 PLD0001088 – PLD0001090 Electronic PRA dated 12/11/2019
18 PLD0001091 – PLD0001095 Electronic PRA dated 12/04/2019
19 PLD0001096 – PLD0001099 Electronic PRA dated 11/20/2019
20 PLD0001100 – PLD0001105 Electronic PRA dated 11/14/2019
21 PLD0001106 – PLD0001111 Electronic PRA dated 11/06/2019
22 PLD0001112 – PLD0001119 Electronic PRA dated 10/17/2019
23 PLD0001120 – PLD0001124 Electronic PRA dated 10/02/2019
24 PLD0001125 – PLD0001128 Electronic PRA dated 09/18/2019
25 PLD0001129 – PLD0001131 Electronic PRA dated 09/11/2019
26 PLD0001132 – PLD0001141 Electronic PRA dated 09/05/2019

27 Discovery is ongoing, and Plaintiff reserves the right to supplement his response as new and
28 relevant information becomes available and known to him.

1 **INTERROGATORY NO. 2:**

2 For each claim for benefits identified in response to Interrogatory No. 1, state any amounts
3 and/or expenses that you paid out-of-pocket, including the amounts alleged in paragraphs 29, 329,
4 331–32, 507, and 525 of the Complaint.

5 **ANSWER:**

6 Plaintiff objects that the Interrogatory calls for information already known to and in the
7 possession of the propounding party.

8 Subject to the foregoing and without waiving same, Plaintiff responds as follows:

9 Plaintiff asserts the following as set forth in the Second Amended Complaint:

10 324. The Plan sets forth an annual out-of-pocket maximum of \$4000 for each person or
11 \$8000 for a family, and provides that “[a]fter the maximum has been reached, the plan pays 100
12 percent of eligible costs.”

13 325. BW had already reached his annual out-of-pocket maximum by the time he began IOP
14 treatment at Summit Estate in July of 2019.

15 326. Prior to admitting to treatment, to ascertain the precise financial responsibility BW
16 would bear and decide whether treatment was financially feasible under the terms of the benefits
17 plan, Summit Estate called United on at the number listed on the back of BW’s insurance card.
18 During this call, United’s representative verified that BW had active benefits for out of network
19 behavioral health treatment, and represented that the plan would pay 70% of UCR until BW’s out of
20 pocket cost sharing responsibilities (“out of pocket maximum”), such as deductibles and co-
21 insurance, were met. United specified these out of pocket amounts and further stated that once these
22 were fully satisfied, United would pay 100% of UCR. During this call, United’s representative stated
23 that UCR would be paid based on the 80th percentile of charges for similar services in the
24 geographic area.

25 329. Based upon United’s many assurances regarding the expected rate of reimbursement
26 and authorizations, and with an understanding of the plain terms of the employer benefit plan, BW
27 decided to attend treatment at Summit Estate and paid, in full and up front, all out of pocket cost
28 sharing expenses, such as the deductible and co-insurance, in order to take full advantage of the

1 maximum benefit available: 100% of UCR. But United did not pay the rate set forth in the Plan and
2 that had been confirmed on the verification call.

3 Discovery is ongoing, and Plaintiff reserves the right to supplement his response as new and
4 relevant information becomes available and known to him.

5 **INTERROGATORY NO. 3:**

6 For each claim for benefits identified in response to Interrogatory No. 1, state the amount of
7 benefits or other monetary amount that you contend should have been paid by Defendants and/or
8 your benefit plan and the basis for your contention, including any “UCR” sources or methodologies
9 that you contend should have been used. *See, e.g.,* Compl. ¶¶ 331–332, 334.

10 **ANSWER**

11 Plaintiff objects that the Interrogatory calls for information already known to and in the
12 possession of the propounding party. Plaintiff further objects to this interrogatory as not reasonably
13 calculated to lead to the discovery of admissible evidence. Plaintiff further objects that the
14 Interrogatory seeks information from third parties and information not within Plaintiff’s possession,
15 custody, control, or personal knowledge.

16 Subject to the foregoing and without waiving same, Plaintiff responds as follows:

17 Plaintiff has set forth applicable language from his insurance policy in the Second Amended
18 Complaint at ¶¶ 319, 322-324.

19 Further, as stated in the Second Amended Complaint at ¶¶ 326-328:

20 “326. Prior to admitting to treatment, to ascertain the precise financial responsibility BW
21 would bear and decide whether treatment was financially feasible under the terms of the benefits
22 plan, Summit Estate called United on at the number listed on the back of BW’s insurance card.
23 During this call, United’s representative verified that BW had active benefits for out of network
24 behavioral health treatment, and represented that the plan would pay 70% of UCR until BW’s out of
25 pocket cost sharing responsibilities (“out of pocket maximum”), such as deductibles and co-
26 insurance, were met. United specified these out of pocket amounts and further stated that once these
27 were fully satisfied, United would pay 100% of UCR. During this call, United’s representative stated
28

1 that UCR would be paid based on the 80th percentile of charges for similar services in the
2 geographic area.

3 327. Summit Estate's full billed charges for IOP services is \$2,156 per diem.

4 328. The Fair Health 80th percentile of charges for similar services in the geographic area for
5 IOP services in Summit Estate's zip code is \$2,576 per diem."

6 Plaintiff realleges and reasserts the damages asserted in the Complaint as if fully set forth
7 herein.

8 Discovery is ongoing, and Plaintiff reserves the right to supplement his response as new and
9 relevant information becomes available and known to him.

10 **INTERROGATORY NO. 4:**

11 For each claim for benefits identified in response to Interrogatory No. 1, identify any
12 assignments of benefits, direct payment authorizations, powers of attorney, authorized representative
13 forms, or other similar assignments or authorizations to any third party (including the provider
14 and/or facility that rendered the service).

15 **ANSWER**

16 Plaintiff objects that the Interrogatory calls for information already known to and in the
17 possession of the propounding party. Plaintiff further objects to this interrogatory as not reasonably
18 calculated to lead to the discovery of admissible evidence. Plaintiff further objects that the
19 Interrogatory seeks information from third parties and information not within Plaintiff's possession,
20 custody, control, or personal knowledge.

21 Subject to the foregoing and without waiving same, Plaintiff responds as follows:

22 Pursuant to Fed. R. Civ. P. 33(d) Plaintiff has elected to produce records:

23 PLD0001160 – PLD0001177 Kipu Systems record

24 Discovery is ongoing, and Plaintiff reserves the right to supplement his response as new and
25 relevant information becomes available and known to him.

26 **INTERROGATORY NO. 5:**

27 For each claim for benefits identified in response to Interrogatory No. 1, identify each
28 document you contend is part of the administrative record.

1 **ANSWER**

2 Plaintiff objects that the Interrogatory calls for information already known to and in the
3 possession of the propounding party. Plaintiff further objects that the Interrogatory seeks
4 information from third parties and information not within Plaintiff's possession, custody, control, or
5 personal knowledge.

6 Plaintiff's claims were underpaid as set forth in the Complaint. The 'Administrative Record'
7 to the extent that the Administrative Record consists of material available to Defendants at the time
8 they approved Plaintiff's claims, is already in their possession. As the Complaint disputes the rate of
9 payment under ERISA, not the right to payment which has already been established and is not in
10 dispute, as well as Federal RICO claims, this interrogatory exceeds the scope of permissible
11 discovery.

12 Further, Plaintiff objects to this Request as "ERISA defines the administrative record as
13 all material that (i) the insurer relied upon in making the benefit determination; (ii) was
14 submitted, considered, or generated in the course of making the benefit determination,
15 regardless of whether the insurer relied upon the material in making the benefit determination;
16 (iii) demonstrates compliance with the administrative processes and safeguards required by
17 ERISA in making the benefit determination; and (iv) in the case of a group health plan like the
18 one at issue here, constitutes a statement of policy or guidance with respect to the plan
19 concerning the denied treatment option or benefit for the claimant's diagnosis, regardless of
20 whether the insurer relied upon the advice or statement in making the benefit determination. 29
21 C.F.R. § 2560.503-1(h)(2)(iii), (m)(8) and (b)(5); *see also Montour v. Hartford Life & Acc. Ins.*
22 *Co.*, 588 F.3d 623 (9th Cir. 2009)." *Andrew C. v. Oracle Am. Inc. Flexible Benefit Plan*, No.
23 17-CV-02072-YGR, 2019 WL 1931974, at *3 (N.D. Cal. May 1, 2019)

24 Subject to the foregoing and without waiving same, pursuant to Fed. R. Civ. P. 33(d)
25 Plaintiff elects to produce the following records:

26 PLD0000001 August 23, 2019 Letter from "Patient Advocacy Department"

27 PLD0000002 August 23, 2019 Letter from "Patient Advocacy Department"

28 PLD0000003 August 23, 2019 Letter from "Patient Advocacy Department"

1	PLD0000004	August 23, 2019 Letter from “Patient Advocacy Department”
2	PLD0000005 – PLD0000357	2018 Apple SPD
3	PLD0000358 – PLD0000708	2019 Apple SPD
4	PLD0000709 – PLD0000722	Kipu Record
5	PLD0000723 – PLD0000725	Kipu Record
6	PLD0000726 – PLD0000731	Provider Remittance Advice dated 04/28/2020
7	PLD0000732 – PLD0000741	Provider Remittance Advice dated 02/28/2020
8	PLD0000742 – PLD0000759	Provider Remittance Advice dated 02/14/2020
9	PLD0000760 – PLD0000773	Provider Remittance Advice dated 02/07/2020
10	PLD0000774 – PLD0000781	Provider Remittance Advice dated 01/31/2020
11	PLD0000782 – PLD0000795	Provider Remittance Advice dated 01/17/2020
12	PLD0000796 – PLD0000807	Provider Remittance Advice dated 01/10/2020
13	PLD0000808 – PLD0000815	Provider Remittance Advice dated 01/03/2020
14	PLD0000816 – PLD0000833	Provider Remittance Advice dated 12/27/2019
15	PLD0000834 – PLD0000845	Provider Remittance Advice dated 12/06/2019
16	PLD0000846 – PLD0000869	Provider Remittance Advice dated 11/29/2019
17	PLD0000870 – PLD0000885	Provider Remittance Advice dated 11/15/2019
18	PLD0000886 – PLD0000913	Provider Remittance Advice dated 11/08/2019
19	PLD0000914 – PLD0000933	Provider Remittance Advice dated 11/01/2019
20	PLD0000934 – PLD0000963	Provider Remittance Advice dated 10/11/2019
21	PLD0000964 – PLD0000985	Provider Remittance Advice dated 09/27/2019
22	PLD0000986 – PLD0001001	Provider Remittance Advice dated 09/13/2019
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PLD0001100 – PLD0001105	Electronic PRA dated 11/14/2019
PLD0001106 – PLD0001111	Electronic PRA dated 11/06/2019
PLD0001112 – PLD0001119	Electronic PRA dated 10/17/2019
PLD0001120 – PLD0001124	Electronic PRA dated 10/02/2019
PLD0001125 – PLD0001128	Electronic PRA dated 09/18/2019
PLD0001129 – PLD0001131	Electronic PRA dated 09/11/2019
PLD0001132 – PLD0001141	Electronic PRA dated 09/05/2019
PLD0001156 – PLD0001159	PAD Letters

Discovery is ongoing, and Plaintiff reserves the right to supplement his response as new and relevant information becomes available and known to him.

INTERROGATORY NO. 6:

For each claim for benefits identified in response to Interrogatory No. 1, identify each plan term that you contend was breached.

ANSWER

Plaintiff objects that the Interrogatory calls for information already known to and in the possession of the propounding party. Plaintiff further objects to this interrogatory as not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff further objects that the Interrogatory seeks information from third parties and information not within Plaintiff's possession, custody, control, or personal knowledge.

Subject to the foregoing and without waiving same, Plaintiff responds as follows:

1 Plaintiff reasserts ¶¶319-324 from the Second Amended Complaint:

2 319. BW's Apple United PPO Plan in effect at the time of his treatment provides that when
3 Covered Health Services other than pharmaceutical products are provided by an out-of-network
4 provider, Eligible Expenses are determined based on "available data resources of competitive fees in
5 that geographic area." The specific Plan provision describing the reimbursement methodology for
6 out-of-network services states the following:

7 When Covered Health Services are provided by an out-of-network provider, Eligible
8 Expenses are determined, based on:

9 • Negotiated Rates agreed to by the out-of-network provider and either UHC or
10 one of UHC's vendors, affiliates or subcontractors, at UHC's discretion.

11 • If rates have not been negotiated, then one of the following applies:

12 o For Covered Health Services other than Pharmaceutical Products, Eligible
13 Expenses are determined based on available data resources of competitive
14 fees in that geographic area.

15 o When Covered Health Services are Pharmaceutical Products, Eligible
16 Expenses are determined based on 110% of the published rates allowed
17 by the Centers for Medicare and Medicaid Services (CMS) for Medicare
18 for the same or similar service within the geographic market.

19 o When a rate is not published by CMS for the service, UnitedHealthcare
20 uses a gap methodology established by OptumInsight and/or a third party
21 vendor that uses a relative value scale. The relative value scale is usually
22 based on the difficulty, time, work, risk and resources of the service. If
23 the relative value scale currently in use becomes no longer available,
24 UnitedHealthcare will use a comparable scale(s).

25 320. Summit Estate does not have a negotiated rate with UHC or any of its vendors,
26 affiliates, or subcontractors.

1 321. IOP services are not Pharmaceutical Products. The Plan describes pharmaceutical
2 products as growth hormone therapy and prescription drugs that can be obtained only with a
3 prescription written by a qualified physician.

4 322. The Plan provides that “When you receive care through an out-of-network provider, the
5 plan pays 70 percent of Eligible Expenses after the out-of-network deductible is met.” The Plan
6 further provides that “[i]f you do not have access to UHC preferred network providers in your
7 residential area, contact UHC Member Services at 866-348-1286. UHC can help you find network
8 providers or make arrangements to have your out-of-network claim paid at the network level of
9 benefits.”

10 323. The Plan provides that “[i]f you choose a UHC network provider, the plan pays 90
11 percent of your costs for most other services, after a \$300 per person (or a maximum of \$900 per
12 family) deductible.”

13 324. The Plan sets forth an annual out-of-pocket maximum of \$4000 for each person or
14 \$8000 for a family, and provides that “[a]fter the maximum has been reached, the plan pays 100
15 percent of eligible costs.”

16 Discovery is ongoing, and Plaintiff reserves the right to supplement his response as new and
17 relevant information becomes available and known to him.

18 **INTERROGATORY NO. 7:**

19 For each claim for benefits identified in response to Interrogatory No. 1, identify the standard
20 of review that you contend applies and the basis for your contention, including any plan term.

21 **ANSWER**

22 Plaintiff objects that the Interrogatory calls for information already known to and in the
23 possession of the propounding party. Plaintiff further objects to this interrogatory as not reasonably
24 calculated to lead to the discovery of admissible evidence. Plaintiff further objects that the
25 Interrogatory seeks information from third parties and information not within Plaintiff’s possession,
26 custody, control, or personal knowledge.

27 Subject to the foregoing and without waiving same, Plaintiff responds as follows:
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1 The Court has ordered the Parties to submit briefing to the Court as to the applicable standard
2 of review in the present matter and expects that the Court will determine the standard of review that
3 applies. It is Plaintiff's position that the *de novo* standard of review applies and the basis for such
4 position is set forth in Plaintiff's briefing on the issue.

5 Discovery is ongoing, and Plaintiff reserves the right to supplement his response as new and
6 relevant information becomes available and known to him.

7 **INTERROGATORY NO. 8:**

8 For each claim for benefits identified in response to Interrogatory No. 1, identify each
9 communication by either defendant and state whether you contend the statement was fraudulent,
10 deceptive, or involved mail or wire fraud.

11 **ANSWER**

12 Plaintiff objects that the Interrogatory calls for information already known to and in the
13 possession of the propounding party. Plaintiff further objects that the Interrogatory seeks
14 information from third parties and information not within Plaintiff's possession, custody, control, or
15 personal knowledge.

16 Subject to the foregoing and without waiving same, Plaintiff responds as follows:

17 Pursuant to Fed. R. Civ. P. 33(d), Plaintiff elects to produce the following records:

18 PLD0000001 August 23, 2019 Letter from "Patient Advocacy Department"

19 PLD0000002 August 23, 2019 Letter from "Patient Advocacy Department"

20 PLD0000003 August 23, 2019 Letter from "Patient Advocacy Department"

21 PLD0000004 August 23, 2019 Letter from "Patient Advocacy Department"

22 PLD0001156 – PLD0001159 PAD Letters

23 PLD0000726 – PLD0000731 Provider Remittance Advice dated 04/28/2020

24 PLD0000732 – PLD0000741 Provider Remittance Advice dated 02/28/2020

25 PLD0000742 – PLD0000759 Provider Remittance Advice dated 02/14/2020

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27 PLD0001106 – PLD0001111 Electronic PRA dated 11/06/2019
28 PLD0001112 – PLD0001119 Electronic PRA dated 10/17/2019

1 PLD0001120 – PLD0001124 Electronic PRA dated 10/02/2019

2 PLD0001125 – PLD0001128 Electronic PRA dated 09/18/2019

3 PLD0001129 – PLD0001131 Electronic PRA dated 09/11/2019

4 PLD0001132 – PLD0001141 Electronic PRA dated 09/05/2019

5 Plaintiff reasserts the following from the Second Amended Complaint:

6 326. Prior to admitting to treatment, to ascertain the precise financial responsibility BW
7 would bear and decide whether treatment was financially feasible under the terms of the benefits
8 plan, Summit Estate called United on at the number listed on the back of BW's insurance card.
9 During this call, United's representative verified that BW had active benefits for out of network
10 behavioral health treatment, and represented that the plan would pay 70% of UCR until BW's out of
11 pocket cost sharing responsibilities ("out of pocket maximum"), such as deductibles and co-
12 insurance, were met. United specified these out of pocket amounts and further stated that once these
13 were fully satisfied, United would pay 100% of UCR. During this call, United's representative stated
14 that UCR would be paid based on the 80th percentile of charges for similar services in the
15 geographic area.

16 416. Defendants committed wire or mail fraud each and every time a faulty or inadequate
17 payment was mailed or transmitted to Plaintiffs or their agents.

18 Discovery is ongoing, and Plaintiff reserves the right to supplement his response as new and
19 relevant information becomes available and known to him.

20 **INTERROGATORY NO. 9:**

21 Describe in detail each alleged breach of fiduciary duty, including any witnesses, documents,
22 or other facts or evidence that you contend support each element of a breach of fiduciary duty.

23 **ANSWER:**

24 Plaintiff objects that the Interrogatory is overbroad, compound, overbroad as to time, and
25 unduly burdensome. Plaintiff further objects that the Interrogatory calls for information already
26 known to and in the possession of the propounding party. Plaintiff objects to this Interrogatory on
27 the grounds that it calls for a legal conclusion.

28 Subject to the foregoing and without waiving same, Plaintiff responds as follows:

1 Plaintiff reasserts the following paragraphs as set forth in the Second Amended Complaint:

2 490. United breached its fiduciary duties to Plaintiffs and the Class by failing to pay proper
3 out-of-network benefits without justification. United therefore owes, and should be ordered to pay,
4 the benefits that were illegally underpaid based on the policies detailed herein.

5 502. United acted as a “fiduciary” to Plaintiffs and the Class as such term is understood
6 under 29 U.S.C. § 1002(21)(A).

7 503. As an ERISA fiduciary, United owed, and owes, its Members in ERISA plans a duty of
8 care, defined as an obligation to act prudently, with the care, skill, prudence and diligence that a
9 prudent administrator would use in the conduct of a like enterprise.

10 504. Further, ERISA fiduciaries must act in accordance with the documents and instruments
11 governing the group plan. 29 U.S.C. § 1104(a)(1)(B) and (D).

12 505. In failing to act prudently, and in failing to act in accordance with the documents and
13 instruments governing the plan, United violated its fiduciary duty of care.

14 506. As an ERISA fiduciary, United owed and owes its Members a duty of loyalty, defined
15 as an obligation to make decisions in the interest of its Members, and to avoid self-dealing or
16 financial arrangements that benefit it at the expense of its Members under 29 U.S.C. § 1106. United
17 cannot, for example, make benefit determinations for the purpose of saving money at the expense of
18 its Members.

19 507. United violated its fiduciary duties of loyalty and due care by, *inter alia*, making out-of-
20 network benefit reductions and adverse benefit determinations that were not authorized by the plan
21 documents and were also misrepresented on EOBs sent to the Plaintiffs and the Class, causing
22 Plaintiffs and the Class to incur, and pay out of pocket for treatment services that should have been
23 paid by United.

24 508. In certain self-insured plans, which are sometimes designated ASO, United makes the
25 final decision on benefit appeals and/or has been given authority, responsibility and discretion with
26 regard to benefits.

27 509. Where United acts as a fiduciary or performs discretionary benefit determinations or
28 otherwise exercises discretion, or determines final benefit appeals, United is liable for underpaid

benefits to Plaintiffs and the Class in both fully insured health plans, where benefits are paid from United's assets, and in employer-funded ERISA health plans.

510. United breached its fiduciary duties by sending non-compliant EOBs and other communications to Plaintiffs and the Class.

511. In addition, United violated (and continues to violate) its fiduciary duty of loyalty by failing to inform Plaintiffs and the Class of material information, including but not limited to flaws in the data and methodology used to determine UCR reimbursement, namely, the UCR reimbursement does not actually reflect a true and accurate UCR.

512. In fact, by using the U.S. mails and interstate wire facilities, United made representations about UCR and payments for IOP services that it knew were untrue. United knew that both it and Viant made arbitrary and capricious decisions as to "UCR" that did not reflect a true and accurate UCR with United providing financial incentives to MultiPlan that allowed United to pay less than the UCR in violation of the plan terms.

513. In relying on improper pricing methods, which were non-compliant with its contractual obligations and invalid to make UCR determinations, and in applying, inter alia, a third party repricing agent, MultiPlan's Viant, that was not authorized and nowhere disclosed to Plaintiffs and the Class in their plan documents, United violated its fiduciary obligations to Plaintiffs and the Class.

514. Plaintiffs and the Class are entitled to assert a claim for relief for United's violation of its fiduciary duties under 29 U.S.C. § 1132(a)(3), including injunctive and declaratory relief, and its removal as a breaching fiduciary.

Plaintiff has also produced records pursuant to Fed. R. Civ. P. 33(d):

PLD0000726 – PLD0000731 Provider Remittance Advice dated 04/28/2020

PLD0000732 – PLD0000741 Provider Remittance Advice dated 02/28/2020

PLD0000742 – PLD0000759 Provider Remittance Advice dated 02/14/2020

PLD0000760 – PLD0000773 Provider Remittance Advice dated 02/07/2020

PLD0000774 – PLD0000781 Provider Remittance Advice dated 01/31/2020

PLD0000782 – PLD0000795 Provider Remittance Advice dated 01/17/2020

1 PLD0000796 – PLD0000807 Provider Remittance Advice dated 01/10/2020
2 PLD0000808 – PLD0000815 Provider Remittance Advice dated 01/03/2020
3 PLD0000816 – PLD0000833 Provider Remittance Advice dated 12/27/2019
4 PLD0000834 – PLD0000845 Provider Remittance Advice dated 12/06/2019
5 PLD0000846 – PLD0000869 Provider Remittance Advice dated 11/29/2019
6 PLD0000870 – PLD0000885 Provider Remittance Advice dated 11/15/2019
7 PLD0000886 – PLD0000913 Provider Remittance Advice dated 11/08/2019
8 PLD0000914 – PLD0000933 Provider Remittance Advice dated 11/01/2019
9 PLD0000934 – PLD0000963 Provider Remittance Advice dated 10/11/2019
10 PLD0000964 – PLD0000985 Provider Remittance Advice dated 09/27/2019
11 PLD0000986 – PLD0001001 Provider Remittance Advice dated 09/13/2019
12 PLD0001002 – PLD0001017 Provider Remittance Advice dated 09/06/2019
13 PLD0001018 – PLD0001061 Provider Remittance Advice dated 08/30/2019
14 PLD0001018 – PLD0001061 Provider Remittance Advice dated 08/30/2019
15 PLD0001062 – PLD0001064 Electronic PRA dated 05/01/2020
16 PLD0001065 – PLD0001066 Electronic PRA dated 03/04/2020
17 PLD0001067 – PLD0001070 Electronic PRA dated 02/02/2020
18 PLD0001071 – PLD0001073 Electronic PRA dated 02/02/2020
19 PLD0001074 – PLD0001076 Electronic PRA dated 01/23/2020
20 PLD0001077 – PLD0001079 Electronic PRA dated 01/15/2020
21 PLD0001080 – PLD0001082 Electronic PRA dated 01/08/2020
22 PLD0001083 – PLD0001087 Electronic PRA dated 01/02/2020
23 PLD0001088 – PLD0001090 Electronic PRA dated 12/11/2019
24 PLD0001091 – PLD0001095 Electronic PRA dated 12/04/2019
25 PLD0001096 – PLD0001099 Electronic PRA dated 11/20/2019
26 PLD0001100 – PLD0001105 Electronic PRA dated 11/14/2019
27 PLD0001106 – PLD0001111 Electronic PRA dated 11/06/2019
28 PLD0001112 – PLD0001119 Electronic PRA dated 10/17/2019

1 PLD0001120 – PLD0001124 Electronic PRA dated 10/02/2019

2 PLD0001125 – PLD0001128 Electronic PRA dated 09/18/2019

3 PLD0001129 – PLD0001131 Electronic PRA dated 09/11/2019

4 PLD0001132 – PLD0001141 Electronic PRA dated 09/05/2019

5 PLD0000001 August 23, 2019 Letter from “Patient Advocacy Department”

6 PLD0000002 August 23, 2019 Letter from “Patient Advocacy Department”

7 PLD0000003 August 23, 2019 Letter from “Patient Advocacy Department”

8 PLD0000004 August 23, 2019 Letter from “Patient Advocacy Department”

9 PLD0001156 – PLD0001159 PAD Letters

10 Discovery is ongoing, and Plaintiff reserves the right to supplement his response as new and
11 relevant information becomes available and known to him.

12 **INTERROGATORY NO. 10:**

13 Describe in detail each alleged violation of RICO, including any witnesses, documents, or
14 other facts or evidence that you contend support each element of a RICO violation.

15 **ANSWER:**

16 Plaintiff objects that the Interrogatory is overbroad, compound, overbroad as to time, and
17 unduly burdensome. Plaintiff further objects that the Interrogatory calls for information already
18 known to and in the possession of the propounding party.

19 Subject to the foregoing and without waiving same, Plaintiff responds as follows:

20 Plaintiff reasserts ¶¶ 71, 111-112, 117, 119, 122-123, 150, 162-163, 167, 175, 177, 181, 192-
21 196, 198-200, 213-214, 419-421. of the Second Amended Complaint:

22 71. Both United and MultiPlan had management and control over how Viant’s methodology
23 was employed to underpay the claims as set forth in more detail in the following sections.

24 111. Defendants, United and MultiPlan, have associated to form an ongoing informal
25 organization, with the common purpose of engaging in a course of conduct, including the
26 development and implementation of a scheme to fraudulently underpay out-of-network IOP services.
27
28

1 112. Defendants joined together to create and exploit a false and fraudulently manipulated
2 database as an excuse for under-reimbursing Plaintiffs for services provided, to the Defendants’
3 financial benefit.

4 117. Both Defendants worked together to develop the false and fraudulent UCR rates that
5 were applied to out-of-network IOP claims.

6 119. United determined the fraudulent rates for under-payment that would be presented as
7 UCR, showing its management over the enterprise, and MultiPlan developed the methodology
8 employed through Viant to achieve United’s low rates, without regard to actual usual and customary
9 rates.

10 122. United’s issuing of the actual under-payment for the Plaintiffs’ and other IOP claims
11 shows its management over the scheme.

12 123. United and MultiPlan’s PAD letters sent to Plaintiffs with both of their names in the
13 letterhead, containing multiple, demonstrably false representations, show their joint management of
14 the scheme.

15 150. United and Viant’s employees responsible for Outpatient Review (OPR) had FAIR
16 Health data loaded onto their virtual “Toolbox” in their in-house claims routing system known
17 colloquially at Multiplan and Viant as “FRED”, and they could have properly applied FAIR Health
18 benchmark pricing at any time, but they consciously chose not to do so. Instead, they employed a
19 fraudulent, underpayment scheme that damaged providers and Plaintiffs in their persons and
20 property.

21 162. MultiPlan offers a host of mechanisms for “cost control.” It has an internal engine,
22 known within the company as FRED. FRED takes inputs from the claims United forwards to it, and
23 routes them to the chosen repricing tool. Publicly, Viant summarizes its methodology as follows: a
24 tool to evaluate “outpatient claims for opportunities to reduce the charges to levels that are usually
25 charged by the provider and customarily charged by similar providers in the area for equivalent
26 services” based on “on payer-established parameters.”

27 163. In reality, however, Viant’s calculations and methodology are not completely or even
28 partially transparent: *i.e.* they are deliberately opaque. Viant uses a complex methodology

1 implemented by a proprietary software engine designed to cull the lowest possible number from a
2 flawed, proprietary database of healthcare claims data that is wholly unrepresentative of amounts
3 actually charged by or paid to similar medical providers in Plaintiffs' surrounding area.

4 167. Viant's methodology thus operates by culling data from a "Outpatient Standard
5 Analytical File" ("SAF"). An SAF is composed of data that are collected from Medicare Part B
6 providers for services rendered to Medicare beneficiaries by the Department of Health and Human
7 Services (DHHs) / Centers for Medicaid and Medicaid Services (CMS).

8 175. Instead of using FAIR Health that does contain actual data for HCPCS H0015, the
9 Viant methodology "crosswalks" the healthcare claims. "Crosswalking" is technical jargon for the
10 process of using rates for one service to come up with or fill-in rates for another service.

11 177. The Viant methodology's crosswalking, reflects a subjective decision that is directed by
12 United and implemented by MultiPlan. The crosswalking is not subject to independent review,
13 scrutiny, or oversight.

14 181. The direction given by United and implementation undertaken by MultiPlan shows that
15 both United and MultiPlan exercised management and direction over the RICO enterprise.

16 192. United knew that it was required to pay Plaintiffs' out-of-network IOP claims based on
17 rates equivalent to amounts charged for similar services by similar providers in patients' treating
18 providers' geographic areas.

19 193. However, instead of using the FAIR Health Database or its own internal data, United
20 used MultiPlan to produce rates. The lower the rate that MultiPlan produced, the more money
21 MultiPlan was paid.

22 194. MultiPlan offered a menu of pricing tools that it knew would be used to produce
23 fraudulently depressed payment rates for the UCR for IOP services.

24 195. For all of the claims at issue here, United and MultiPlan agreed to use the Viant
25 methodology instead of one of MultiPlan's other, legitimate services.

26 196. United deliberately avoided using MultiPlan's legitimate services because those services
27 priced claims at rates higher than what United wanted pay. United opted to use Viant's methodology
28

1 because it knew, based on meetings between United and MultiPlan, that the payment rates Viant's
2 methodology would produce would be artificially low.

3 198. The pricing process starts with United forwarding a claim to MultiPlan. At its sole
4 discretion, United chooses which claims to price internally, which claims to send for one of
5 MultiPlan's other, legitimate, pricing services, and which claims to price through Viant.

6 199. United sends claim information to MultiPlan via a software "electronic data
7 interchange" program ("EDI"). The EDI process allowed United to communicate several critical
8 inputs to MultiPlan:

- 9 • Claims Information (Policy Type, Charge Amount, CPT/HCPCS Codes)
- 10 • Designated Repricing Tool (Data iSight, Negotiations, Viant, Rental Networks, or
11 some combination of those tools)
- 12 • The Benchmark "target price" for the claim (i.e. the benchmark price that
13 determined MultiPlan's compensation); or
- 14 • The percentile (usually 60% or 40%) of the manipulated, "crosswalked" SAF
15 database to use to set a benchmark rate (explained below).

16 200. Once MultiPlan received information from UHC, it started the repricing process by
17 sending UHC's inputs through its "Claims Savings Engine" known internally as FRED which routed
18 the claim to Viant.

19 213. In addition to the corrupted Viant methodology, United sent Viant a "target rate" for
20 each claim. The "target rate" is United's arbitrarily selected rate for IOP treatment. United sent
21 MultiPlan the target rate for each claim at issue in this litigation. The target rate thus became the
22 benchmark amount to be paid for the IOP claim.

23 214. Within MultiPlan this was known as a "meet or beat" price. In all cases, United had
24 complete control over the Target Price and MultiPlan had complete control over its use in the Viant
25 methodology. The following flow chart summarizes the process Defendants use to illegally price the
26 claims: [Diagram in Second Amended Complaint].
27
28

1 419. The PAD letters are part of the overall scheme to defraud; they reflect that Defendants
2 worked together, further the illegal objective of the Enterprise, and thus constitute predicate acts of
3 racketeering activity by both Defendants.

4 420. The underpayments made to Plaintiffs, although issued by United, also constitute
5 predicate acts by both Defendants as they worked together as part of the scheme to defraud, to
6 create, misrepresent, and pay a fraudulent UCR, to knowingly and intentionally not pay the amounts
7 they were legally required to pay.

8 421. To keep this fraud hidden, the patients are discouraged from contacting their employers
9 who issued the plan, their providers or even United and are instead redirected to the enterprise and
10 directed to let the enterprise handle the matter. This is the “liability shield” in action that Viant
11 promised to its Enterprise co-conspirator United.

12 Plaintiff has also produced records pursuant to Fed. R. Civ. P. 33(d) with correspondence
13 reflecting Defendant’s violation of RICO:

14 PLD0000001 August 23, 2019 Letter from “Patient Advocacy Department”

15 PLD0000002 August 23, 2019 Letter from “Patient Advocacy Department”

16 PLD0000003 August 23, 2019 Letter from “Patient Advocacy Department”

17 PLD0000004 August 23, 2019 Letter from “Patient Advocacy Department”

18 PLD0001156 – PLD0001159 PAD Letters

19 PLD0000726 – PLD0000731 Provider Remittance Advice dated 04/28/2020

20 PLD0000732 – PLD0000741 Provider Remittance Advice dated 02/28/2020

21 PLD0000742 – PLD0000759 Provider Remittance Advice dated 02/14/2020

22 PLD0000760 – PLD0000773 Provider Remittance Advice dated 02/07/2020

23 PLD0000774 – PLD0000781 Provider Remittance Advice dated 01/31/2020

24 PLD0000782 – PLD0000795 Provider Remittance Advice dated 01/17/2020

25 PLD0000796 – PLD0000807 Provider Remittance Advice dated 01/10/2020

26 PLD0000808 – PLD0000815 Provider Remittance Advice dated 01/03/2020

27 PLD0000816 – PLD0000833 Provider Remittance Advice dated 12/27/2019

28 PLD0000834 – PLD0000845 Provider Remittance Advice dated 12/06/2019

1 PLD0000846 – PLD0000869 Provider Remittance Advice dated 11/29/2019
2 PLD0000870 – PLD0000885 Provider Remittance Advice dated 11/15/2019
3 PLD0000886 – PLD0000913 Provider Remittance Advice dated 11/08/2019
4 PLD0000914 – PLD0000933 Provider Remittance Advice dated 11/01/2019
5 PLD0000934 – PLD0000963 Provider Remittance Advice dated 10/11/2019
6 PLD0000964 – PLD0000985 Provider Remittance Advice dated 09/27/2019
7 PLD0000986 – PLD0001001 Provider Remittance Advice dated 09/13/2019
8 PLD0001002 – PLD0001017 Provider Remittance Advice dated 09/06/2019
9 PLD0001018 – PLD0001061 Provider Remittance Advice dated 08/30/2019
10 PLD0001018 – PLD0001061 Provider Remittance Advice dated 08/30/2019
11 PLD0001062 – PLD0001064 Electronic PRA dated 05/01/2020
12 PLD0001065 – PLD0001066 Electronic PRA dated 03/04/2020
13 PLD0001067 – PLD0001070 Electronic PRA dated 02/02/2020
14 PLD0001071 – PLD0001073 Electronic PRA dated 02/02/2020
15 PLD0001074 – PLD0001076 Electronic PRA dated 01/23/2020
16 PLD0001077 – PLD0001079 Electronic PRA dated 01/15/2020
17 PLD0001080 – PLD0001082 Electronic PRA dated 01/08/2020
18 PLD0001083 – PLD0001087 Electronic PRA dated 01/02/2020
19 PLD0001088 – PLD0001090 Electronic PRA dated 12/11/2019
20 PLD0001091 – PLD0001095 Electronic PRA dated 12/04/2019
21 PLD0001096 – PLD0001099 Electronic PRA dated 11/20/2019
22 PLD0001100 – PLD0001105 Electronic PRA dated 11/14/2019
23 PLD0001106 – PLD0001111 Electronic PRA dated 11/06/2019
24 PLD0001112 – PLD0001119 Electronic PRA dated 10/17/2019
25 PLD0001120 – PLD0001124 Electronic PRA dated 10/02/2019
26 PLD0001125 – PLD0001128 Electronic PRA dated 09/18/2019
27 PLD0001129 – PLD0001131 Electronic PRA dated 09/11/2019
28 PLD0001132 – PLD0001141 Electronic PRA dated 09/05/2019

1 Discovery is ongoing, and Plaintiff reserves the right to supplement his response as new and
2 relevant information becomes available and known to him.

3 **INTERROGATORY NO. 11:**

4 List all sources of mental health and/or substance abuse coverage for you or any putative
5 class member and the dates of enrollment in that coverage.

6 **ANSWER:**

7 Plaintiff objects that the Interrogatory is overbroad, compound, overbroad as to time, and
8 unduly burdensome. Plaintiff further objects that the Interrogatory calls for information already
9 known to and in the possession of the propounding party. Plaintiff objects to this Interrogatory on
10 the grounds that it seeks information that is protected by BW's right to privacy and that is not
11 directly related to a disputed issue in the lawsuit. Plaintiff further objects to this interrogatory as not
12 reasonably calculated to lead to the discovery of admissible evidence. Plaintiff further objects that
13 the Interrogatory seeks information from third parties and information not within Plaintiff's
14 possession, custody, control, or personal knowledge.

15 Subject to the foregoing and without waiving same, Plaintiff responds as follows:

16 Pursuant to Fed. R. Civ. P. 33(d) Plaintiff has elected to produce records as to his employer
17 sponsored health benefits plan:

18 PLD0000005 – PLD0000357 2018 Apple SPD

19 PLD0000358 – PLD0000708 2019 Apple SPD

20 PLD0001824 – PLD0002176 2018 Apple Full Time Employees Benefits Book

21 PLD0002189 – PLD0002538 2019 Apple Full Time Employees Benefits Book

22 Discovery is ongoing, and Plaintiff reserves the right to supplement his response as new and
23 relevant information becomes available and known to him.

24 **INTERROGATORY NO. 12:**

25 Identify all claims for benefits and/or treatments you received for mental health and/or
26 substance abuse disorders, including but not limited to any residential treatment, intensive outpatient
27 programs, or other treatment of any type, regardless of whether you contend the treatments were
28

properly reimbursed. (Any claims for benefits and/or treatments already identified in response to Interrogatory No. 1, above, need not be listed again here.)

ANSWER:

Plaintiff objects that the Interrogatory is overbroad, compound, overbroad as to time, and unduly burdensome. Plaintiff further objects that the Interrogatory calls for information already known to and in the possession of the propounding party. Plaintiff objects to this Interrogatory on the grounds that it seeks information that is protected by BW's right to privacy and that is not directly related to a disputed issue in the lawsuit. Plaintiff further objects that the Interrogatory seeks information from third parties and information not within Plaintiff's possession, custody, control, or personal knowledge.

Subject to the foregoing and without waiving same, Plaintiff responds as follows:

Plaintiff has elected to produce the following documents pursuant to Fed. R. Civ. P. 33(d):

PLD0001160 – PLD0001177 Kipu Systems record

PLD0001178 – PLD0001192 Kipu Systems record

Discovery is ongoing, and Plaintiff reserves the right to supplement his response as new and relevant information becomes available and known to him.

INTERROGATORY NO. 13:

For each treatment identified in response to Interrogatory Nos. 1 and 12, identify each communication with a provider and/or facility (including any employee or representative of the provider and/or facility) about benefits, coverage, payment, reimbursement, a payment plan or schedule, discounts, demands for payment, collections, waivers, write-offs, "UCR," or any other financial arrangements related to the treatment.

ANSWER

Plaintiff objects that the Interrogatory calls for information already known to and in the possession of the propounding party. Plaintiff further objects that the Interrogatory seeks information from third parties and information not within Plaintiff's possession, custody, control, or personal knowledge.

Subject to the foregoing and without waiving same, Plaintiff responds as follows:

1 Pursuant to Fed. R. Civ. P. 33(d), Plaintiff elects to produce the following records:

2 PLD0000001 August 23, 2019 Letter from “Patient Advocacy Department”

3 PLD0000002 August 23, 2019 Letter from “Patient Advocacy Department”

4 PLD0000003 August 23, 2019 Letter from “Patient Advocacy Department”

5 PLD0000004 August 23, 2019 Letter from “Patient Advocacy Department”

6 PLD0001156 – PLD0001159 PAD Letters

7 Plaintiff reasserts ¶326 from the Second Amended Complaint:

8 326. Prior to admitting to treatment, to ascertain the precise financial responsibility BW
9 would bear and decide whether treatment was financially feasible under the terms of the benefits
10 plan, Summit Estate called United on at the number listed on the back of BW’s insurance card.
11 During this call, United’s representative verified that BW had active benefits for out of network
12 behavioral health treatment, and represented that the plan would pay 70% of UCR until BW’s out of
13 pocket cost sharing responsibilities (“out of pocket maximum”), such as deductibles and co-
14 insurance, were met. United specified these out of pocket amounts and further stated that once these
15 were fully satisfied, United would pay 100% of UCR. During this call, United’s representative stated
16 that UCR would be paid based on the 80th percentile of charges for similar services in the
17 geographic area.

18 Plaintiff reasserts ¶416 from the Second Amended Complaint:

19 416. Defendants committed wire or mail fraud each and every time a faulty or inadequate
20 payment was mailed or transmitted to Plaintiffs or their agents.

21 Discovery is ongoing, and Plaintiff reserves the right to supplement his response as new and
22 relevant information becomes available and known to him.

23 **INTERROGATORY NO. 14:**

24 Identify each communication that you contend was fraudulent or deceptive in this action.

25 **ANSWER:**

26 Plaintiff objects that the Interrogatory is overbroad, compound, overbroad as to time, and
27 unduly burdensome. Plaintiff further objects that the Interrogatory calls for information already
28 known to and in the possession of the propounding party. Plaintiff further objects that the

1 Interrogatory seeks information from third parties and information not within Plaintiff's possession,
2 custody, control, or personal knowledge. Plaintiff further objects that this Interrogatory is duplicative
3 of Defendant's previous Interrogatories.

4 Subject to the foregoing and without waiving same, Plaintiff responds as follows:

5 Pursuant to Fed. R. Civ. P. 33(d), Plaintiff elects to produce the following records:

6 PLD0000001 August 23, 2019 Letter from "Patient Advocacy Department"

7 PLD0000002 August 23, 2019 Letter from "Patient Advocacy Department"

8 PLD0000003 August 23, 2019 Letter from "Patient Advocacy Department"

9 PLD0000004 August 23, 2019 Letter from "Patient Advocacy Department"

10 PLD0001156 – PLD0001159 PAD Letters

11 PLD0000726 – PLD0000731 Provider Remittance Advice dated 04/28/2020

12 PLD0000732 – PLD0000741 Provider Remittance Advice dated 02/28/2020

13 PLD0000742 – PLD0000759 Provider Remittance Advice dated 02/14/2020

14 PLD0000760 – PLD0000773 Provider Remittance Advice dated 02/07/2020

15 PLD0000774 – PLD0000781 Provider Remittance Advice dated 01/31/2020

16 PLD0000782 – PLD0000795 Provider Remittance Advice dated 01/17/2020

17 PLD0000796 – PLD0000807 Provider Remittance Advice dated 01/10/2020

18 PLD0000808 – PLD0000815 Provider Remittance Advice dated 01/03/2020

19 PLD0000816 – PLD0000833 Provider Remittance Advice dated 12/27/2019

20 PLD0000834 – PLD0000845 Provider Remittance Advice dated 12/06/2019

21 PLD0000846 – PLD0000869 Provider Remittance Advice dated 11/29/2019

22 PLD0000870 – PLD0000885 Provider Remittance Advice dated 11/15/2019

23 PLD0000886 – PLD0000913 Provider Remittance Advice dated 11/08/2019

24 PLD0000914 – PLD0000933 Provider Remittance Advice dated 11/01/2019

25 PLD0000934 – PLD0000963 Provider Remittance Advice dated 10/11/2019

26 PLD0000964 – PLD0000985 Provider Remittance Advice dated 09/27/2019

27 PLD0000986 – PLD0001001 Provider Remittance Advice dated 09/13/2019

28 PLD0001002 – PLD0001017 Provider Remittance Advice dated 09/06/2019

1 PLD0001018 – PLD0001061 Provider Remittance Advice dated 08/30/2019

2 PLD0001018 – PLD0001061 Provider Remittance Advice dated 08/30/2019

3 PLD0001062 – PLD0001064 Electronic PRA dated 05/01/2020

4 PLD0001065 – PLD0001066 Electronic PRA dated 03/04/2020

5 PLD0001067 – PLD0001070 Electronic PRA dated 02/02/2020

6 PLD0001071 – PLD0001073 Electronic PRA dated 02/02/2020

7 PLD0001074 – PLD0001076 Electronic PRA dated 01/23/2020

8 PLD0001077 – PLD0001079 Electronic PRA dated 01/15/2020

9 PLD0001080 – PLD0001082 Electronic PRA dated 01/08/2020

10 PLD0001083 – PLD0001087 Electronic PRA dated 01/02/2020

11 PLD0001088 – PLD0001090 Electronic PRA dated 12/11/2019

12 PLD0001091 – PLD0001095 Electronic PRA dated 12/04/2019

13 PLD0001096 – PLD0001099 Electronic PRA dated 11/20/2019

14 PLD0001100 – PLD0001105 Electronic PRA dated 11/14/2019

15 PLD0001106 – PLD0001111 Electronic PRA dated 11/06/2019

16 PLD0001112 – PLD0001119 Electronic PRA dated 10/17/2019

17 PLD0001120 – PLD0001124 Electronic PRA dated 10/02/2019

18 PLD0001125 – PLD0001128 Electronic PRA dated 09/18/2019

19 PLD0001129 – PLD0001131 Electronic PRA dated 09/11/2019

20 PLD0001132 – PLD0001141 Electronic PRA dated 09/05/2019

21 Plaintiff reasserts ¶326 from the Second Amended Complaint:

22 326. Prior to admitting to treatment, to ascertain the precise financial responsibility BW
23 would bear and decide whether treatment was financially feasible under the terms of the benefits
24 plan, Summit Estate called United on at the number listed on the back of BW's insurance card.
25 During this call, United's representative verified that BW had active benefits for out of network
26 behavioral health treatment, and represented that the plan would pay 70% of UCR until BW's out of
27 pocket cost sharing responsibilities ("out of pocket maximum"), such as deductibles and co-
28 insurance, were met. United specified these out of pocket amounts and further stated that once these

1 were fully satisfied, United would pay 100% of UCR. During this call, United's representative stated
2 that UCR would be paid based on the 80th percentile of charges for similar services in the
3 geographic area.

4 Plaintiff reasserts ¶416 from the Second Amended Complaint:

5 416. Defendants committed wire or mail fraud each and every time a faulty or inadequate
6 payment was mailed or transmitted to Plaintiffs or their agents.

7 Discovery is ongoing, and Plaintiff reserves the right to supplement his response as new and
8 relevant information becomes available and known to him.

9 **INTERROGATORY NO. 15:**

10 Identify each communication about your claims and allegations in this case, including any
11 communications with any Defendant, any health benefits plan or administrator, your employer, any
12 co-worker, any provider and/or facility (including any employee or representative of the provider
13 and/or facility), any other putative class member, or any governmental entity.

14 **ANSWER:**

15 Plaintiff objects that the Interrogatory is overbroad, compound, overbroad as to time, and
16 unduly burdensome. Plaintiff further objects that the Interrogatory calls for information already
17 known to and in the possession of the propounding party. Plaintiff objects to this Interrogatory on
18 the grounds that it seeks information that is protected by the attorney-client privilege. Plaintiff
19 objects to this Interrogatory on the grounds that it seeks information that is protected by BW's right
20 to privacy and that is not directly related to a disputed issue in the lawsuit. Plaintiff further objects to
21 this interrogatory as not reasonably calculated to lead to the discovery of admissible
22 evidence. Plaintiff further objects that the Interrogatory seeks information from third parties and
23 information not within Plaintiff's possession, custody, control, or personal knowledge.

24 Subject to the foregoing and without waiving same, Plaintiff responds as follows:

25 Subject to the foregoing and without waiving same, Plaintiff responds as follows:

26 Pursuant to Fed. R. Civ. P. 33(d), Plaintiff elects to produce the following records:

27 PLD0000001 August 23, 2019 Letter from "Patient Advocacy Department"

28 PLD0000002 August 23, 2019 Letter from "Patient Advocacy Department"

1 PLD0000003 August 23, 2019 Letter from “Patient Advocacy Department”
2 PLD0000004 August 23, 2019 Letter from “Patient Advocacy Department”
3 PLD0001156 – PLD0001159 PAD Letters
4 PLD0000726 – PLD0000731 Provider Remittance Advice dated 04/28/2020
5 PLD0000732 – PLD0000741 Provider Remittance Advice dated 02/28/2020
6 PLD0000742 – PLD0000759 Provider Remittance Advice dated 02/14/2020
7 PLD0000760 – PLD0000773 Provider Remittance Advice dated 02/07/2020
8 PLD0000774 – PLD0000781 Provider Remittance Advice dated 01/31/2020
9 PLD0000782 – PLD0000795 Provider Remittance Advice dated 01/17/2020
10 PLD0000796 – PLD0000807 Provider Remittance Advice dated 01/10/2020
11 PLD0000808 – PLD0000815 Provider Remittance Advice dated 01/03/2020
12 PLD0000816 – PLD0000833 Provider Remittance Advice dated 12/27/2019
13 PLD0000834 – PLD0000845 Provider Remittance Advice dated 12/06/2019
14 PLD0000846 – PLD0000869 Provider Remittance Advice dated 11/29/2019
15 PLD0000870 – PLD0000885 Provider Remittance Advice dated 11/15/2019
16 PLD0000886 – PLD0000913 Provider Remittance Advice dated 11/08/2019
17 PLD0000914 – PLD0000933 Provider Remittance Advice dated 11/01/2019
18 PLD0000934 – PLD0000963 Provider Remittance Advice dated 10/11/2019
19 PLD0000964 – PLD0000985 Provider Remittance Advice dated 09/27/2019
20 PLD0000986 – PLD0001001 Provider Remittance Advice dated 09/13/2019
21 PLD0001002 – PLD0001017 Provider Remittance Advice dated 09/06/2019
22 PLD0001018 – PLD0001061 Provider Remittance Advice dated 08/30/2019
23 PLD0001018 – PLD0001061 Provider Remittance Advice dated 08/30/2019
24 PLD0001062 – PLD0001064 Electronic PRA dated 05/01/2020
25 PLD0001065 – PLD0001066 Electronic PRA dated 03/04/2020
26 PLD0001067 – PLD0001070 Electronic PRA dated 02/02/2020
27 PLD0001071 – PLD0001073 Electronic PRA dated 02/02/2020
28 PLD0001074 – PLD0001076 Electronic PRA dated 01/23/2020

1 PLD0001077 – PLD0001079 Electronic PRA dated 01/15/2020

2 PLD0001080 – PLD0001082 Electronic PRA dated 01/08/2020

3 PLD0001083 – PLD0001087 Electronic PRA dated 01/02/2020

4 PLD0001088 – PLD0001090 Electronic PRA dated 12/11/2019

5 PLD0001091 – PLD0001095 Electronic PRA dated 12/04/2019

6 PLD0001096 – PLD0001099 Electronic PRA dated 11/20/2019

7 PLD0001100 – PLD0001105 Electronic PRA dated 11/14/2019

8 PLD0001106 – PLD0001111 Electronic PRA dated 11/06/2019

9 PLD0001112 – PLD0001119 Electronic PRA dated 10/17/2019

10 PLD0001120 – PLD0001124 Electronic PRA dated 10/02/2019

11 PLD0001125 – PLD0001128 Electronic PRA dated 09/18/2019

12 PLD0001129 – PLD0001131 Electronic PRA dated 09/11/2019

13 PLD0001132 – PLD0001141 Electronic PRA dated 09/05/2019

14 Plaintiff reasserts ¶326 from the Second Amended Complaint:

15 326. Prior to admitting to treatment, to ascertain the precise financial responsibility BW
16 would bear and decide whether treatment was financially feasible under the terms of the benefits
17 plan, Summit Estate called United on at the number listed on the back of BW's insurance card.
18 During this call, United's representative verified that BW had active benefits for out of network
19 behavioral health treatment, and represented that the plan would pay 70% of UCR until BW's out of
20 pocket cost sharing responsibilities ("out of pocket maximum"), such as deductibles and co-
21 insurance, were met. United specified these out of pocket amounts and further stated that once these
22 were fully satisfied, United would pay 100% of UCR. During this call, United's representative stated
23 that UCR would be paid based on the 80th percentile of charges for similar services in the
24 geographic area.

25 Plaintiff reasserts ¶416 from the Second Amended Complaint:

26 416. Defendants committed wire or mail fraud each and every time a faulty or inadequate
27 payment was mailed or transmitted to Plaintiffs or their agents.
28

1 Discovery is ongoing, and Plaintiff reserves the right to supplement his response as new and
2 relevant information becomes available and known to him.

3 **INTERROGATORY NO. 16:**

4 Describe in detail all monetary relief that you seek in the Complaint regarding your
5 individual claims and/or claims of putative class members, including any calculations, estimates,
6 formulas, categories, or other methods you contend should be used to determine such relief.

7 **ANSWER:**

8 Plaintiff objects that the Interrogatory is overbroad, compound, overbroad as to time, and
9 unduly burdensome. Plaintiff further objects that the Interrogatory calls for information already
10 known to and in the possession of the propounding party.

11 Subject to the foregoing and without waiving same, Plaintiff responds as follows:
12 Plaintiff seeks the relief requested in the Complaint. Additionally, Plaintiff has elected to produce
13 the following records in response to this Interrogatory pursuant to Fed. R. Civ. P. 33(d):

14 PLD0000726 – PLD0000731 Provider Remittance Advice dated 04/28/2020

15 PLD0000732 – PLD0000741 Provider Remittance Advice dated 02/28/2020

16 PLD0000742 – PLD0000759 Provider Remittance Advice dated 02/14/2020

17 PLD0000760 – PLD0000773 Provider Remittance Advice dated 02/07/2020

18 PLD0000774 – PLD0000781 Provider Remittance Advice dated 01/31/2020

19 PLD0000782 – PLD0000795 Provider Remittance Advice dated 01/17/2020

20 PLD0000796 – PLD0000807 Provider Remittance Advice dated 01/10/2020

21 PLD0000808 – PLD0000815 Provider Remittance Advice dated 01/03/2020

22 PLD0000816 – PLD0000833 Provider Remittance Advice dated 12/27/2019

23 PLD0000834 – PLD0000845 Provider Remittance Advice dated 12/06/2019

24 PLD0000846 – PLD0000869 Provider Remittance Advice dated 11/29/2019

25 PLD0000870 – PLD0000885 Provider Remittance Advice dated 11/15/2019

26 PLD0000886 – PLD0000913 Provider Remittance Advice dated 11/08/2019

27 PLD0000914 – PLD0000933 Provider Remittance Advice dated 11/01/2019

28 PLD0000934 – PLD0000963 Provider Remittance Advice dated 10/11/2019

1 PLD0000964 – PLD0000985 Provider Remittance Advice dated 09/27/2019
2 PLD0000986 – PLD0001001 Provider Remittance Advice dated 09/13/2019
3 PLD0001002 – PLD0001017 Provider Remittance Advice dated 09/06/2019
4 PLD0001018 – PLD0001061 Provider Remittance Advice dated 08/30/2019
5 PLD0001018 – PLD0001061 Provider Remittance Advice dated 08/30/2019
6 PLD0001062 – PLD0001064 Electronic PRA dated 05/01/2020
7 PLD0001065 – PLD0001066 Electronic PRA dated 03/04/2020
8 PLD0001067 – PLD0001070 Electronic PRA dated 02/02/2020
9 PLD0001071 – PLD0001073 Electronic PRA dated 02/02/2020
10 PLD0001074 – PLD0001076 Electronic PRA dated 01/23/2020
11 PLD0001077 – PLD0001079 Electronic PRA dated 01/15/2020
12 PLD0001080 – PLD0001082 Electronic PRA dated 01/08/2020
13 PLD0001083 – PLD0001087 Electronic PRA dated 01/02/2020
14 PLD0001088 – PLD0001090 Electronic PRA dated 12/11/2019
15 PLD0001091 – PLD0001095 Electronic PRA dated 12/04/2019
16 PLD0001096 – PLD0001099 Electronic PRA dated 11/20/2019
17 PLD0001100 – PLD0001105 Electronic PRA dated 11/14/2019
18 PLD0001106 – PLD0001111 Electronic PRA dated 11/06/2019
19 PLD0001112 – PLD0001119 Electronic PRA dated 10/17/2019
20 PLD0001120 – PLD0001124 Electronic PRA dated 10/02/2019
21 PLD0001125 – PLD0001128 Electronic PRA dated 09/18/2019
22 PLD0001129 – PLD0001131 Electronic PRA dated 09/11/2019
23 PLD0001132 – PLD0001141 Electronic PRA dated 09/05/2019

24 Discovery is ongoing, and Plaintiff reserves the right to supplement his response as new and
25 relevant information becomes available and known to him.

26 **INTERROGATORY NO. 17:**

27 Describe in detail all non-monetary relief that you seek in the Complaint, regarding your
28

individual claims and/or claims of putative class members, including the specific terms of any injunctions, declarations, or other non-monetary relief that you seek.

ANSWER:

Plaintiff objects that the Interrogatory is overbroad, compound, overbroad as to time, and unduly burdensome. Plaintiff further objects that the Interrogatory calls for information already known to and in the possession of the propounding party.

Subject to the foregoing and without waiving same, Plaintiff responds as follows:

Plaintiff reasserts the following as asserted in the Second Amended Complaint:

- Injunctive and equitable relief enjoining Defendants from the conduct alleged herein and/or other appropriate equitable relief;
- Declaring that United's payments were improper underpayments,
- Declaring that United's payment methodologies were and are improper;
- Declaring that MultiPlan's benefit determination and negotiation methodologies are improper;
- Declaring that United and MultiPlan have engaged in an illegal, prohibited, RICO enterprise;
- Ordering United to reprocess all underpaid claims using an appropriate methodology;
- Ordering United and MultiPlan to provide transparency as to the methodology applied in reprocessing claims and that the methodology be approved by the Court;
- [A]warding a surcharge, disgorging Defendants unjust enrichments from their wrongful conduct.

Discovery is ongoing, and Plaintiff reserves the right to supplement his response as new and relevant information becomes available and known to him.

Verification to follow.

Dated: September 7, 2021

Respectfully submitted,

NAPOLI SHKOLNIK PLLC

By: /s/ Matthew M. Lavin

Matthew M. Lavin, Esq. (*pro hac vice*)

Aaron R. Modiano, Esq. (*pro hac vice*)

Attorneys for Plaintiffs and the Putative Class